

Exemptions From Tax For Certain Allowances

Section 523(a) amends section 912 of the Internal Revenue Code of 1954, which relates to the exemption from Federal income tax of certain allowances. Under paragraph (1) of the existing section 912, in the case of civilian officers and employees of the United States stationed outside the continental United States, amounts received as cost-of-living allowances in accordance with regulations approved by the President are not includible in gross income. Under paragraph (2) of the existing section 912, amounts received by an officer or employee of the Foreign Service of the United States as allowances or otherwise under title IX of the Foreign Service Act of 1946 are not includible in gross income.

Section 523(a) of the bill, as amended by the committee, amends section 912 of the Internal Revenue Code of 1954 to make the changes in it made necessary by reason of the provisions of titles II and III of the bill. The amended paragraph (1) of section 912 provides that in the case of civilian officers and employees of the United States, amounts received as allowances or otherwise under certain designated provisions of law are not to be included in gross income. The designated provisions of law are:

-2-

(1) Title IX of the Foreign Service Act of 1946.

(2) Section 4 of the Central Intelligence Agency Act of 1949.

(3) Title II of the bill.

(4) Subsections (e) and (f) of the first section of the Administrative Expenses Act of 1946, and sections 22 and 23 of that Act.

The references to the provisions of law so designated are references to such provisions as amended from time to time, and thus include the amendments made thereto by title III of the bill.

In paragraph (1) of the amended section 912 it is made clear that its provisions do not apply to amounts received as post differentials. For this purpose, the term "post differentials" means, in general, amounts granted on the basis of conditions of environment which differ substantially from conditions of environment in the continental United States, such as amounts granted pursuant to the authority contained in section 231 of the bill.

Under the bill as introduced, paragraph (1)(D) contained a reference to subsection (a) of the first section of the Administrative Expenses Act of 1946. Such subsection (a) provides, in general, that where a civilian officer or employee of the Government is, in the interest of the Government, transferred from one official station to another, for

-3-

permanent duty, his travel expenses, the expenses of transporting his immediate family, and the expenses of transporting or storing his household goods, may be paid from Government funds. The third proviso of this subsection states that no part of such expenses may be paid from Government funds where the transfer is made primarily for the convenience or benefit of the officer or employee or at his request. Under Revenue Ruling 54-429 (1954 Cumulative Bulletin 1954-2, page 53), it has been held that where an employee is transferred in the interest of his employer from one official station to another for permanent duty, the allowance or reimbursement received for moving himself, his immediate family, family goods, and personal effects is not includible in the gross income of the employee if the total amount of the reimbursement or allowance is expended for such purpose. In view of this revenue ruling, the reference to such subsection (a) is stricken by a committee amendment on the grounds that it is unnecessary.

Paragraph (2) of the amended section 912 provides that in the case of civilian officers or employees of the United States who are stationed outside the continental United States, there shall not be included in gross income amounts (other than amounts received under title II of the bill) received

-4-

as cost-of-living allowances in accordance with regulations approved by the President.

For purposes of the new paragraph (2), Alaska is not treated as part of the continental United States. Thus, in the case of a civilian officer or employee of the United States stationed in Alaska, amounts received as a cost-of-living allowance in accordance with regulations approved by the President are not to be included in gross income.

Section 523(b) of the bill as amended by your committee provides that the amended section 912 of the Internal Revenue Code of 1954 is to apply only with respect to amounts received on or after the date of the enactment of the bill in taxable years ending after that date. In the case of any amount received before the date of the enactment of the bill, its tax treatment is to be determined under existing law without inferences drawn from the amendment made by the bill. Furthermore, the tax treatment of amounts received on or after the date of the enactment of the bill to which the provisions of the amended section 912 are not expressly made applicable is to be made under the Internal Revenue Code of 1954 without inferences from the fact that such provisions are not expressly made applicable.